

Court No. 2

In the High Court of Uttaranchal at Nainital.

(1) Appeal against Order No. 88 of 2003.

United India Insurance Company Ltd.,
Through its Divisional Manager,
Divisional Office, Tikonía, Haldwani,
District-Nainital. Opp.Party/Appellant.

Versus

1. Sri Kamal Bhatt Prasad,
R/o Village-Khetal Sanda, Tehsil Khatima,
..... Claimant/Respondent
2. M/s Khatima Fibres Ltd. Khatima,
Lohia Head, Khatima, District-Udham Singh Nagar.
.....Opp.party/Respondents

(2) A.O. No. 87 of 2003.

United India Insurance Company Ltd.,
Through its Divisional Manager,
Divisional Office, Tikonía, Haldwani,
District-Nainital. Opp.Party/Appellant.

Versus

1. Sri Siyaram Morya,
R/o Village-Pahenia Jhankat, Tehsil
Khatima, District Udham Singh Nagar,
..... Claimant/Respondent
2. M/s Khatima Fibres Ltd.,
Khatima, Lohia Head, Khatima,
District-Udham Singh Nagar.
.....Opp.party/Respondents

AND

(3) A.O. No. 89 of 2003.

United India Insurance Company Ltd.,
Through its Divisional Manager,
Divisional Office, Tikonía, Haldwani,
District-Nainital. Opp.Party/Appellant.

Versus

1. Sri Ganga Prasad,
R/o Bhesa Guwalpur, Tehsil Bisalpur,
District Pilibhit.
..... Claimant/Respondent
2. M/s Khatima Fibres Ltd. Khatima,
Lohia Head, Khatima, District-Udham Singh Nagar.
.....Opp.party/Respondents

**For appellant- Sri Prabhat Pande Advocate,
For the respondent No.1-Sri Sanjay Kaushik Advocate,
For the respondent No.2-Sri C.K.Sharma Advocate,
For the interxvenor in A.O. No.87 /2003-Sri K.S.Bora
Advocate.**

Dated: 23rd Aug., 2004

**Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.**

All This appeals have been preferred by the appellant against the separate orders dated 22.2.2003 passed by the Commissioner of Workmen's Compensation /Assistant Labour Commissioner, Kumaon Region, Haldwani (Nainital) in Workmen's Compensation Case Nos. D.D.W.C.A. 4 of 2002, 5 of 2002 and 3 of 2002 respectively, whereby the petitions of the applicant/claimants have been allowed for grant of compensation including interest.

2- Brief facts giving rise to these appeals are that the deceased Prem Bhatt aged 32 years, Guddu aged 22 years and Amar Singh aged 21 years respectively, who were under the employment of employer's establishment died in an accident which occurred on 11.5.2002 in M/s Khatima Fibres Ltd. Khatima. It was alleged that each deceased was earning Rs. 2341/- as fixed pay per month. The claimants filed the petitions for compensation which were allowed including interest.

3- The Opp.parties contested the case and did not deny the accident in each case causing the death of deceased person. The Opp.Party No.1 alleged that the factory was covered under the Workmen's Insurance Policy from the United India Insurance Company and the liability, if any, to pay the compensation to the dependents of the deceased goes to the Insurance Copany. The Opp. Party No.2-Insurance Company did not deny the insurance of the establishment under the workmen's Compensation Act.

4- The learned counsel for the Insurance Company challenged the impugned judgment in each case on only one ground that the learned Commissioner erred in directing the appellant to deposit the amount of compensation directly without going into the question of liability under workmen insurance policy and further that under Section 10-A of Workmen's Compensation Act the Workmen Compensation Commissioner can only direct the employer to deposit the compensation.

5- We have gone through the impugned judgments. It is undisputed that the accident occurred during the course of employment in which the aforesaid workmen died. It is clear from the findings given by the learned Commissioner that the employer has also filed the insurance cover note issued by the Insurance Company in which Khatima Fibres Ltd. (All Staff) have been insured which proves that the Opp.party No.1 was insured with Opp.party No.2. It has also been proved that the opposite party No.1-employer has several times sent information by registered post to the Insurance Company well in time about the death of the aforesaid workmen in the said accident. Hence the ground of challenge is misconceived and rejected. The findings given by the Commissioner are based on documentary evidence. We find no error or illegality in the impugned orders. Accordingly, all the appeals have no force on merit.

7- All these three appeals are dismissed. The impugned judgment and orders under appeals are upheld. No order as to costs.

8- The Intervening Application No.1112 of 2004 moved in A.O.No. 87 of 2002 is disposed of with the direction that the applicant may file objection before the learned Commissioner and after disposal of the same the amount of compensation shall be disbursed.

(B.S. Verma, J.)

(P.C. Verma, J.)

P.Singh